

## **MINUTES**

### **ETHICS REVIEW COMMISSION MEETING**

April 13, 2016

#### **MAIN CONFERENCE ROOM**

#### **2<sup>nd</sup> FLOOR**

#### **300 N. CAMPBELL STREET**

#### **MEMBERS PRESENT:**

Stuart R. Schwartz, Mayor – Presiding Officer  
Robert Warach, District 1  
Daniel Anchondo, District 3  
Mark-Thomas Bray, District 4  
Adolpho Telles, District 5  
Jed Untereker, District 6  
Emmanuel Echeverria, District 7  
Rafael Adame, District 8

#### **MEMBERS ABSENT:**

Audrey Ann Marrufo, District 2

#### **OTHERS PRESENT:**

Amanda Martinez, Recording Secretary  
Sylvia Borunda Firth, City Attorney  
Ross Fischer, Attorney for Ethics Review Commission  
Jim Darnell, Attorney for Tommy Gonzalez  
Larry Romero, District 2 Representative  
Barbara Carrasco  
Camilo Jimenez  
Edmundo Calderon  
Roque Agnon  
Media

### **I. CALL TO ORDER**

Seeing a quorum, Presiding Officer Stuart Schwartz called the meeting to order at 6:08 pm.

### **II. APPROVAL OF MINUTES FROM FEBRUARY 24, 2016.**

**Motion made by Mr. Anchondo to approve the minutes of February 24, 2016.** Mr. Echeverria seconded the motion, and was approved unanimously.

### **III. APPOINT CHAIRMAN**

Mr. Schwartz explains that a chairman needs to be appointed since the previous chairman is no longer serving on the Ethics Review Commission due to term expiring.

Mr. Telles makes a motion to elect Stuart Schwartz as Chairman. Mr. Anchondo seconded the motion, the motion passed unanimously with Mr. Schwartz abstaining.

#### **IV. REPORT REGARDING ETHICS COMPLAINT – REPRESENTATIVE CLAUDIA ORDAZ**

Mrs. Borunda Firth explains that the first read of any ethics complaint is through her office and through her. The first run through is to check that the complaint is in compliance with the ordinance. Then a determination is made if this body would have jurisdiction. If there is jurisdiction then the complaint is presented to the Ethics Review Commission. If there is no jurisdiction then the complaint is dismissed.

Mrs. Borunda Firth explains that as of right now, the Ethics Review Commission does not have an appeal process and that is something we need to revise in the ordinance.

Mrs. Borunda Firth informs the commission that they have been given a copy of the complaint, the letter to the complainant, and informs the commission that an appeal was received on Monday. Mrs. Borunda Firth explains she has 20 days to handle the appeal.

#### **V. REPORT REGARDING ETHICS COMPLAINT – MAYOR OSCAR LEESER**

Mrs. Borunda Firth explains that the complaint against the Mayor was also dismissed due to jurisdiction.

Chairman Schwartz explains that once the commission is completed with this ethics complaint, they will be reviewing the ordinance to see if any changes need to be made based on the experience gathered.

#### **VI. PRESENTATION REGARDING COMMISSION MEMBER LIABILITY**

Mrs. Borunda Firth stated that the Ethics Review Commission requested a memorandum regarding member liability explaining the scope of liability and how you are protected against liability. Mrs. Borunda Firth explains that as long as you are acting in your scope of work, the City will represent you.

Mrs. Borunda Firth explains that this item will be on the agenda for the next meeting to discuss the memorandum after the members have item to review.

#### **VII. DISCUSSION AND POSSIBLE ACTION REGARDING RESOLUTION OF SWORN COMPLAINT BY JAMES TOLBERT AGAINST LARRY ROMERO VIA ORDER, AGREED RESOLUTION, AND LETTER OF REPRIMAND.**

Chairman Schwartz welcomes Mr. Romero and explains why Mr. Romero is here for the meeting.

Mr. Fischer takes over and explains how to process sworn complaints filed with the Ethics Review Commission. Mr. Fischer explains that he put together an agreed resolution and letter of reprimand.

Mr. Fischer explains the agreed resolution and states there has been clear and convincing evidence regarding the complaint filed. Mr. Fischer explains that the document goes through the three allegations made by Mr. Tolbert against Mr. Romero. The resolution then follows with a legal conclusion.

Mr. Fischer explains that he has informed the members of the potential for resolution of the complaint and has discussed the details of the proposed resolution with Mr. Romero.

Mr. Romero states that he has read the letter of reprimand and agrees to sign the agreed resolution.

Mr. Anchondo makes the motion to pass the agreed resolution, Mr. Adame seconds. The motion passes unanimously.

Mr. Romero and Chairman Schwartz signed the order, agreed resolution.

Chairman Schwartz thanks Mr. Romero for attending and wishes him luck in the future.

#### **VIII. DISCUSSION AND POSSIBLE ACTION REGARDING SWORN COMPLAINT SUBMITTED BY JAMES TOLBERT AS IT RELATES TO TOMMY GONZALEZ**

Item 7 and Item 8 were taken together.

#### **IX. DISCUSSION AND POSSIBLE ACTION ON A POTENTIAL REQUEST FOR CONTINUANCE OF HEARING DATE BY MR. TOMMY GONZALEZ**

Mr. Darnell states that the day the Ethics Review Commission wants to meet is the day that Mr. Gonzalez has to be in Austin at a board meeting. Mr. Darnell requests the commission find a new day. Mr. Darnell is requesting a day late in May.

Chairman Schwartz explains that the Ethics Review Commission needs to decide if they want to move forward with a continuance and if so, on what day.

Mr. Darnell states himself and Mr. Gonzalez are available on May 9<sup>th</sup>, May 10<sup>th</sup>, June 1<sup>st</sup>, June 2<sup>nd</sup>, and June 22<sup>nd</sup>.

The commissioners talk about the dates among themselves.

May 10<sup>th</sup> is unavailable for two members who will be out of town. The members do not want to go into June for a date.

Chairman Schwartz questions how long Mr. Gonzalez has known about this meeting and Mr. Darnell replies stating “quite some time”. Chairman Schwartz explains that the only issue they were aware of with the 26<sup>th</sup> of April was the fact that Mr. Darnell may have a trial but that ended up getting taken care of last week. Chairman Schwartz explains that if the board had known about this board meeting when Mr. Gonzalez knew about it then we could have worked it out and found a better date.

Mr. Echeverria makes a motion to deny the continuance and move forward with the April 26<sup>th</sup> hearing date. The board is the State Office of Risk Management. Tommy Gonzalez is part of the committee due to being the City Manager. Motion passes 6-1 with Mr. Anchondo voting nay. The meeting is scheduled for April 26, 2016.

Mr. Darnell presents Ross Fischer with a notebook of responding documents requested for the hearing; list of witnesses and supporting documents.

## **X. DISCUSSION AND ACTION REGARDING THE SCHEDULED MEETING FOR April 26, 2016**

Chairman Schwartz confirms that the meeting is being held on April 26, 2016 at 9 am in City Council chambers.

Mr. Fischer states that he will make sure all the documents presented tonight by Mr. Darnell will be given to the members prior to the meeting.

## **XI. ADJOURNMENT**

Chairman Schwartz makes comment that the agreement we came with Mr. Romero came from the communication between Mr. Fischer and Mr. Romero. The Ethics Ordinance is not a court of law and subpoena powers are limited. We did what we can to make sure the process was completed fully, fairly, and completely.

Motion made by Mr. Anchondo, seconded by Mr. Warach and unanimously carried to adjourn the meeting at 7:18 pm.

**Date Approved:** \_\_\_\_\_